

**Nat'l Highway Traffic Safety Admin., DOT**

**§ 511.3**

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**APPENDIX I TO PART 511—FINAL PREHEARING ORDER**

**AUTHORITY:** 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

**SOURCE:** 45 FR 81578, Dec. 11, 1980, unless otherwise noted.

**Subpart A—Scope of Rules; Nature of Adjudicative Proceedings, Definitions**

**§ 511.1 Scope of the rules.**

This part establishes rules of practice and procedure for adjudicative proceedings conducted pursuant to section 508(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. Pub. L. 94-163, 89 Stat. 911, section 2008(a)(2)), which are required by statute to be determined on the record after opportunity for a public hearing.

**§ 511.2 Nature of adjudicative proceedings.**

Adjudicative proceedings shall be conducted in accordance with title 5, U.S.C., sections 551 through 559 and this part. It is the policy of the agency that adjudicative proceedings shall be conducted expeditiously and with due regard to the rights and interests of all persons affected, and to the public interest. Therefore, the presiding officer and all parties shall make every effort at each stage of a proceeding to avoid unnecessary delay.

**§ 511.3 Definitions.**

(a) As used in this part:

(1) The term *application* means an *ex parte* request by a party for an order that may be granted or denied without opportunity for response by any other party.

(2) The term *NHTSA* means the National Highway Traffic Safety Administration.

(3) The term *Administrator* means the Administrator of the National Highway Traffic Safety Administration.

(4) The term *Complaint Counsel* means prosecuting counsel for the NHTSA.

(5) The term *motion* means a request by a party for a ruling or order that may be granted or denied only after opportunity for response by each affected party.

(6) The term *party* means the NHTSA, and any person named as a respondent in a proceeding governed by this part.

(7) The term *person* means any individual, partnership, corporation, association, public or private organization, or Federal, State or municipal governmental entity.

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(8) The term *petition* means a written request, made by a person or a party and addressed to the Presiding Officer or the Administrator, that the addressee take some action.

(9) The term *Presiding Officer* means the person who conducts an adjudicative hearing under this part, who shall be an administrative law judge qualified under title 5, U.S.C., section 3105 and assigned by the Chief Administrative Law Judge, Office of Hearings, United States Department of Transportation.

(10) The term *Respondent* means any person against whom a complaint has been issued.

(11) The term *Office of Hearings* means the Office of Hearings, Department of Transportation.

(12) The term *staff* means the staff of the National Highway Traffic Safety Administration.

(13) The term *Chief Administrative Law Judge* means the Chief Administrative Law Judge of the Office of Hearings, Department of Transportation.

(14) The term *Docket Section* means the Docket Section, Office of the Secretary of Transportation.

[45 FR 81578, Dec. 11, 1980, as amended at 53 FR 15782, May 3, 1988]

### Subpart B—Pleadings; Form; Execution; Service of Documents

#### §511.11 Commencement of proceedings.

(a) *Notice of institution of an enforcement proceeding.* An adjudicative proceeding under this part is commenced by the issuance of a complaint by the NHTSA.

(b) *Form and content of complaint.* The complaint shall be signed by the Complaint Counsel and shall contain the following:

(1) Recital of the legal authority for instituting the proceeding, with specific designation of the statutory provisions involved in each allegation.

(2) Identification of each respondent.

(3) A clear and concise statement of the charges, sufficient to inform each respondent with reasonable definiteness of the factual basis of the allegations of violation. A list and summary of documentary evidence supporting the charges shall be attached.

(4) A statement of the civil penalty which the Complaint Counsel believes is in the public interest, or which is required by law. In the case of civil penalties assessed for violations of section 507(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(3)), the amount of such penalty shall be calculated from the time of the alleged violation. In the case of civil penalties assessed for violations of section 507 (1) or (2) of that Act, any monetary credits available to offset those civil penalties shall be specified.

(5) The right of the respondent to a hearing on the alleged violations.

(c) *Notice to the public.* Once a complaint is issued, notice of it shall be immediately submitted to the FEDERAL REGISTER for publication. The notice in the FEDERAL REGISTER shall briefly describe the nature of the proceeding and state that petitions to participate in the proceeding must be filed no later than the first prehearing conference.

#### §511.12 Answer.

(a) *Time for filing.* A respondent shall have twenty (20) days after service of a complaint within which to file an answer.

(b) *Content of answer.* An answer shall conform to the following:

(1) *Request for hearing.* Respondent shall state whether it requests a full, adjudicatory hearing or whether it desires to proceed on the basis of written submissions. If a hearing is requested, respondent shall specify those issues on which a hearing is desired.

(2) *Contested allegations.* An answer in which the allegations of a complaint are contested shall contain:

(i) Specific admission or denial of each allegation in the complaint. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, respondent shall so state. Such a statement shall have the effect of a denial. Denials shall fairly meet the substance of the allegations denied. Allegations not thus answered shall be deemed to have been admitted.

(ii) A concise statement of the factual and/or legal defenses to each allegation of the complaint.

(3) *Admitted allegations.* If the respondent admits or fails to deny any